DOCUMENT RESUME

ED 314 935 FL 018 277

AUTHOR de Jongh, Elena M.
TITLE Court Interpreting: The Anatomy of a Profession.
PUB DATE Aug 89
NOTE 16p.; Paper presented at the Annual Meeting of the American Association of Teachers of Spanish and Portuguese (San Antonio, TX, August 10-14, 1989).
PUB TYPE Information Analyses (070) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Court Litigation; *Courts; *Interpreters; *Job Skills; Language Processing; *Language Skills; *Professional Occupations; Translation
IDENTIFIERS *Court Interpreters Act 1978

ABSTRACT

For both translators and interpreters, language proficiency is only the starting point for professional work. The equivalence of both meaning and style are necessary for faithful translation. The legal interpreter or translator must understand the complex characteristics and style of legal language. Court interpreting is a relatively young profession, recognized as a specialization only since the passage of the Court Interpreters Act of 1978. Many still erroneously equate bilingualism with the ability to interpret. The profession requires specific language and memory skills. There are different modes of interpreting: simultaneous, consecutive, summary, and sight translation. The use of each is contingent on the situation, facilities, number of persons needing the service, and availability of equipment. The Court Interpreters Act provides for interpretive services in all criminal and civil actions in the federal district courts where the United States is plaintiff. Because it does not provide for preservation of the original foreign language testimony or off-the-record interpretation, the use of qualified, certified interpreters is essential to a true and accurate interpretation. The Court Interpreters Act establishes minimum competence levels and, with the resulting certification examination, has made educators aware of the level of expertise necessary for effective court interpreting and has helped professionalize the field of court interpreting. (MSE)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED314935

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

de Jongh, E

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

COURT INTERPRETING: THE ANATOMY OF A PROFESSION

Elena M. de Jongh

In his classic 1953 study, "Toward a Theory of Translating," I. A. Richards called translation "probably the most complex type of event yet produced in the evolution of the cosmos." (Studies in Chinese Thought, 55, Memoir 75). While it is easy to overemphasize the significance of one's own specialty, as Brislin has pointed out, "the proficiency and range of skills demanded of a good translator [and a good interpreter] and the magnitude of the task of translating from one language to another make the quote by Richards defensible" (p. 1).

Translation generally refers to the transfer of thoughts and ideas from a source language to a target language, "whether the languages have established orthographies or do not have such standardization; or whether one or both languages is based on signs, as with sign languages [for the hearing impaired]. . . Interpretation is one type of translation, and it refers to oral communication situations in which one person speaks in the source language, an interpreter processes this input and produces output in a second language, and a third person listens to the source language version." (Brislin, p. 1) The term translation, therefore, refers to the processing of written language and interpretation to the processing of spoken language. Both activities serve to eliminate barriers to communication across languages and cultures; translators and interpreters function as linguistic intermediaries. The term "translator" is generally-- and erroneously-- used to refer to the activity carried out by

FL018277

BEST COPY AVAILABLE

an "interpreter." Although both professions build upon complete fluency in the language involved and share common characteristics, they represent two distinct professions. Danica Saleskovitch writes:

> Translation converts a written text into another written text, while interpretation converts an oral message into another oral message. The difference is crucial. In translation, the thought which is studied, analyzed and subsequently rendered in the other language is contained in a permanent setting: the written text. Good or bad, this text is static, immutable in its form and fixed in time. And the translation, equally circumscribed within a written text, is intended, as was the original, for a public the translator does not know. . . Interpreting represents something entirely different. The . . . interpreter is there with both speaker and listener, dealing with messages whose fleeting words are important, not because of their form, but almost entirely because of their meaning. He participates in a dialogue, his words are aimed at a listener whom he addresses directly and in whom he seeks to elicit a reaction, and he does this at a speed which is about 30 times greater than that of the translator. (p. 2).

For translators and interpreters alike, linguistic competence is only the starting point. As underscored in the New Jersey

Supreme Court Task Force report on interpreting and translating services, cross-cultural awareness and linguistic skill development are necessary building blocks: "the interpreting profession requires not only a series of keenly refined and superbly developed skills, but also special knowledge. The translator or interpreter does not simply perform gymnastics of word-for-word equivalence. Dialect, educational level, register, geographic variation, specialized terminology, untranslatable words or phrases, and style are all integral components in the choice of expression." (5)

Eugene Nida, widely recognized as the world's leading authority on translation, indicates that translation is much more than a simple process of providing semantic equivalence. Equivalence of both meaning and style are necessary for a faithful translation. (Nida & Tabery 33). The legal interpreter or translator, for instance, must understand the characteristics and particular style of "legalese." In the process of language transfer in the legal context it is essential to know that the word "bench" refers to the office or dignity of a judge, whereas in everyday language, it generally refers to a long seat for two or more persons. But beyond the meanings of specific legal words and phrases, the interpreter and translator must "be cognizant of the formality of legal language, its apparent redundancy, the repetition of seemingly synonymous terms, the abundance of archaisms and foreign language terms, the presence of many terms of the art, and the use of complex structure. At times the

ambiguity of legal language is intentionally sought in order to allow for double meanings, shield certain intentions, or permit increased flexibility." (Supreme Court, p. 6). Interpreters and translators working in the legal field must also be keenly aware of the cultural dissimilarities and of the differences in the legal systems of the countries where the source language and the target language are spoken. An obvious example is the disparity in the functions of a notary public in the United States and of the "notario público" in Spain and Latin America. The titles sound very similar, but the differences are vast. In the Spanish-speaking world, the "notario" is an attorney who meets rigorous qualifications and whose authority approximates that of a judge, whereas in the United States a notary public does not need legal training and generally carries out rather routine matters such as the authentication of signatures.

Court interpreting is a relatively young profession. It may be said that in the United States it has been recognized as a profession rather than as a function any bilingual person could perform, only since the passage of the Court Interpreters Act of 1978. Unfortunately, many people still equate bilingualism with interpreting, and often attorneys use unqualified "bilingual" personnel when they need to interview or explain important legal matters to their clients. Thanks to a great extent to the efforts of those who have worked in the field during the last two decades, recognition for court interpreting as a highly specialized profession has been gained.

Maurice Gravier, Professor of Interpreting at the Sorbonne, summarizes the characteristics of students admitted to the interpretation program at his university:

> What we teach is the technique of interpretation, and only those persons who are perfectly fluent in two foreign languages ,and who can handle their native tongue with eloquence and precision are admitted to the program. These aspiring interpreters must also be versatile and they must be fast thinkers. Furthermore, they must have an inborn curiosity and must have the ability to take an interest in each and every area of human activity. Lastly, interpretation requires that one have nerves of steel, great self-control and acute and sustained powers of concentration. (Preface to Seleskovitch, p. vi).

According to Seleskovitch, the interpreting process can be broken down into three stages: 1) Auditory perception of a linguistic utterance which carries meaning. Apprehension of the language and comprehension of the message through a process of analysis and exegesis; 2) Immediate and deliberate discarding of the wording and retention of the mental representation of the message (concepts, ideas, etc.); and 3) Production of a new utterance in the target language which must meet a dual requirement: it must express the original message in its entirety, and it must be geared to the recipient. (p. 9) In other words, the memory of the interpreter does not store the

original words but rather their meaning, which is then processed for interpretation into the target language.

There are different modes of interpreting: simultaneous, consecutive, summary, and sight translation. The use of a particular mode is contingent upon several factors: the situation, the physical facilities, the number of persons needing the services of the interpreter, and the availability of interpreting equipment. In the judicial setting, all four modes mentioned may be utilized. However, summary interpreting, in which the interpreter condenses and edits, is the least common of the modes used. Due to the risks involved when the interpreter leaves out certain information, this mode is inconsistent with the accuracy and completeness so crucial in legal matters.

Sight translation involves the oral interpretation (in a target language) of written material (in a source language). This generally involves documents and reports which are admitted as evidence, and which the interpreter reads into the record.

Consecutive interpretation requires that the primary speaker pause at regular intervals during his or her monologue, to allow the interpreter to convey the utterances in the target language. It is used for on the record testimony. For instance, when a non-English-speaking witness testifies, the interpreter stands next to the witness, interpreting questions from English for the benefit of the witness and any non-English-speaking defendants. As the witness answers in his or her native

language, the interpreter listens and renders the English interpretation of the response for the benefit of all English-speaking individuals in the courtroom. It must be emphasized that only the English version is taken down by the court reporter (Senate Report No. 569, 95th Congress, 1st Session, p. 8). Therefore, the interpreter's rendition of what the witness said, and not the witness' actual words, forms part of the permanent court record.

Simultaneous interpretation, commonly associated with the United Nations, demands that the interpreter listen and speak contemporaneously with the primary speaker whose monologue is being translated. No pauses by the primary speaker are required. Since both individuals are speaking at the same time, special equipment is necessary. In effect, the interpreter can be said to be playing two roles simultaneously in the field of language communication; two roles that otherwise are always practiced separately: speech and understanding. Most of the court interpreter's work today is done in the simultaneous mode. In fact, the first formal use of simultaneous interpreting took place in a courtroom at the Nuremberg and Japan War Crimes trials. "That was the birth of the profession, and although on an international level it was recognized that criminal defendants were entitled to hear a simultaneous interpretation of the proceedings in their native language, the U.S. lagged behind for some 30 years until it adopted such simultaneous practices in its courtrooms." (Festinger). The simultaneous mode is used by the

interpreter when rendering, for the party, an off-the-record version of all that is said in the courtroom. The following quote by Glemet is an excellent description of the task of simultaneous interpretation:

> . . . The speaker speaks, and you are speaking too. If memory plays little part, neither does the personal element in the reconstruction of speech. Your sentence must, of necessity, follow the pattern of those which the speaker has pronounced. Circumlocutions are impossible. You cannot hear ahead. Your rendering will naturally tend to be verbatim, but, of course, what you say must make sense, and word for word translation may not. As you are following the speaker you start a sentence. But as you start a sentence you are taking a leap in the dark, you are mortgaging your grammatical future; the original sentence may suddenly be turned in such a way that your translation of its end cannot easily be reconciled with your translation of its start. Great nimbleness is called for to guide the mind through this syntactical maze, whilst at the same time it is engaged upon the work of word-translation. Listening intently, translating half unconsciously, consciously intervening to redress the formas and balances of syntax, touching up, putting in fillers--these are some of the demands of simultaneous interpretation. (168)

If one has never tried or witnessed simultaneous interpreting before, it may be difficult to imagine what it is like. By trying the following exercise, however, one may have an idea of what it involves: Turn on the radio or television and repeat everything you hear, only use different words. For example, if you hear a statement such as "I am going home," you might "interpret" that statement by saying "I am returning to my residence" or "I shall repair to my abode," to see how long and how completely you are able to keep up with what you hear. (Bilingual Skills for Commerce and Industry, p. 170).

On October 28, 1978, the Court Interpreters Act, providing for interpretive services in all criminal and civil actions in the Federal district courts where the United States is plaintiff, was signed into law. Since this Act does not provide for the preservation of the original foreign language testimony or off-the-record interpretation, the use of qualified, certified interpreters is of prime importance to ensure a true and accurate interpretation. The court interpreters examination was developed in order to establish "minimum levels of competency and a demonstration of required qualifications before an intrepeter may be admitted to status as a certified Federal court interpreter." (Supreme Court 31) /1/. Before this Act was passed, there was no standardized method of determining qualifications and insuring objectivity for the person called on to interpret (often relatives of the non-English speaker were utilized). The Ballad of Gregorio Cortes depicts on film the tragic account of a

Mexican-American's encounter with the law, his unjust incarceration as well as that of members of his family, and the fatal shooting of his brother --all due to the misinterpretation of a single word. "Yegua" was erroneously interpreted as "horse" rather than "mare," thus setting off the largest man-hunt in the history of Texas.

The Federal Court Interpreters Act and the certification examination for interpreters in the Federal courts have made educators aware of the level of expertise required for court interpreting, and have done a great deal to professionalize court interpreting. In accordance with Rule 604 of the Federal Rules of Evidence, before serving in any proceeding in the Federal Courts, an interpreter must qualify as an expert witness. In other words, an interpreter "is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath of affirmation that he will make a true translation." (Federal Rules of Evidence). This requirement is an indication that the Federal courts recognize interpreting as a profession.

If interpreting is to protect the rights of non-English-speakers, the interpretation must adhere to the following criteria: 1) accuracy (no errors, omissions, modifications or embellishments must be present in conveying the speaker's message); 2) objectivity (the interpreter must have no personal interest in the outcome of the case nor be biased one way or the other. The interpreter's prejudices, opinions, feelings, etc.,

must not interfere in any way with his/her formulation of the target language message); 3) completeness (if information is ommitted, then the defendant is not "truly present." The defendant should be able to "hear" everything that is being said about his/her case in the same way an English-speaking defendant has the constitutional right to do so; and 4) reproduction of the speaker's style and level of language (if an interpreter alters the speaker's style and level of speech, his rendition is no accurate because the impact of what is said will be different). That is why we say "garbage in, garbage out." For example, if an interpreter "cleans up" obscenities from a witness's testimony, the jury hearing only the English interpretation will receive an inaccurate picture of the original speaker. By the same token, if an articulate, highly-educated person's testimony is interpreted with grammatical errors, improper syntax and slang terms, this interpretation may not be considered accurate.

The degree of professionalism required for court interpreting cannot be over-emphasized. Court interpreters play a vital role in the administration of justice. It is a unique kind of interpreting: unlike conference interpreting where the interpreter works into one language, the court interpreter must be able to constantly switch back and forth between two languages. Additionally, the court interpreter must be prepared to interpret very different levels of speech, regionalisms, slang, and of course, legalese. We must interpret

for people from all walks of life. As Nancy Festinger has written in relation to the demands and stress connected with the court interpreter's job:

> . . . we perform mental gymnastics, jumping from an attorney's constitutional argument in a motion to supress, to a drug addict's slurred explanation, to a witness's deliberately elusive answer, to the socio-psychological jargon of a probation report, to the small print of a statute, to a judge's syntactically convoluted charge to the jury--often, all in the space of a few hours. We repeat patent nonsense, veiled (or not-so-veiled) bullying, impassioned pleas, righteous indignation, stern admonishments, nit-picking questions, ironic remarks, barbed answers, tearful confessions, and through it all we must pay unflagging attention, betray no sign of annoyance or incredulity, all the while maintaining composure, impartiality and linguistic fidelity." (3).

Although recognition for court interpreting as a profession has been gained in the Federal court system, much remains to be done on the state court level. Most state constitutions do not contain any guarantee of the right of the accused to an interpreter. But at any level, the utilization of unqualified interpreters may result in inaccurate testimony, mistrials, and appeals. Thus, in the legal context, what is "lost in the translation" may be a person's rights, freedom, or life.

NOTES

/1/ The certification examination consists of a written and an oral portion. See Etilvia Arjona, "The Court Interpreters Certification Test Design." In Spanish Language Use and Public Life in the United States. L. Elias-Olivares, et.al. Berlin: Mouton Publishers, 1985: 181-200.

WORKS CITED

Brislin, Richard W., ed. Translation. Application and Research. New York: Gardner Press, Inc., 1976.

Escobar, Javier, Jr. et al. Bilingual Skills for Commerce and Industry and Guide for Translators. Cincinnati: South-Western Publishing Co., 1984.

Festinger, Nancy. "Court Interpreting: Maintaining Linguistic Fidelity in the Crossfire of Legal Battles" C.I.T.A., 1985.

Glemet, R. in R. Brower, ed. On Translation. Cambridge: Harvard University Press, 1958.

Nida, Eugene & Charles Tabery, The Theory and Practice of Translation. Leiden: E. J. Brill, 1969.

Richards, I. A. "Toward a Theory of Translation." In Studies in Chinese Thought. Chicago: U of Chicago Press, 1953.

Seleskovitch, Danica. Interpreting for International Conferences. Washington, D.C.: Pen & Booth, 1978.

New Jersey Supreme Court Task Force on Interpreter and Translation Services. Background Report #21: Interpreting and Translating as Professions. January 20, 1984.

Elena M. de Jongh

Florida International University

December 23, 1989

Dr. John Karl
Acquisitions Coordinator
ERIC Clearinghouse on Languages
& Linguistics
Center for Applied Linguistics
1118 22nd St., N.W.
Washington, D.C. 20037

Dear Colleague:

I am pleased to accept your invitation to submit my manuscript, "Court Interpreting: the Anatomy of a Profession," to the ERIC Clearinghouse on Languages & Linguistics. As you know, this paper was read at the 1989 AATSP Annual Meeting held in San Antonio, Texas. Enclosed please find my manuscript and the completed Reproduction Release form you sent me.

Should you have any questions or comments, please do not hesitate to contact me. I look forward to hearing from you in the very near future.

Sincerely yours,

Elena M. de Jongh

Elena M. de Jongh
Assistant Professor
Department of Modern Languages
Florida International University
Miami, Florida 33199
(305) 271-7192 (home)

Encls